

REMARKS

The Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

I. Amendments to the Claims

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claim 63 currently is being amended to further prosecution. In particular, claim 63 is amended to incorporate the limitation of claim 76 and to omit recitation of “a variant of SEQ ID NO:2.” The amendment does not add new matter and entry thereof is requested.

Claims 70, 71, and 75-77 are requested to be cancelled without prejudice or disclaimer.

After amending the claims as set forth above, claims 63-69 and 72-74 are now pending in this application.

II. Rejection - 35 U.S.C. § 112, first paragraph, “written description”

Claim 77 stands rejected under 35 U.S.C. § 112, first paragraph, as allegedly “failing to comply with the written description requirement.” Claim 77 has been cancelled, obviating the rejection.

Claims 63-69 and 72-77 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly “containing subject matter which was not described in the specification in such as way as to reasonably convey to one of skill in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.” In particular, claim 63, and claims 64-69 and 72-77, which depend from claim 63, stand rejected for reciting “a

variant of SEQ ID NO:2.” Claims 63 has been amended to omit recitation of “a variant of SEQ ID NO:2,” obviating the rejection.

III. Rejection - 35 U.S.C. § 112, first paragraph, “enablement”

Claims 63-69 and 72-77 stand rejected under 35 U.S.C. § 112, first paragraph, allegedly “because the specification, while being enabling for an isolated antibody which specifically binds a protein consisting of the amino acid sequence set forth in SEQ ID NO:2 does not reasonably provide enablement for an isolated antibody to a polypeptide variant of SEQ ID NO:2 as recited in claim 63 or a polypeptide variant as recited in claim 77(b).” Claim 63 has been amended to omit recitation of “a variant of SEQ ID NO:2” and claim 77 has been cancelled, obviating the rejection.

IV. Rejection - 35 U.S.C. § 112, second paragraph, “indefiniteness”

Claims 63-69 and 72-77 stand rejected under 35 U.S.C. § 112, second paragraph, allegedly as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” In particular, claim 63 was rejected for reciting “of from 1-5 amino acids.” Claim 63 has been amended to omit recitation of the term “of from 1-5 amino acids,” obviating the rejection.

Claims 63, 67, 68, and 75-77 were rejected for reciting “or other antigen specific binding molecule.” Claim 63 has been amended to incorporate the limitation of claim 76 and recite “wherein the antigen-specific binding molecule is selected from the group consisting of a single chain antibody, an Fab fragment, and an F(ab')₂ fragment.” As such, claim 63 provides a limitation for the term “or other antigen specific binding molecule,” and one skilled in the art would understand the metes and bounds of the claims.

Reconsideration and withdrawal of the rejection are requested.

V. Rejection - 35 U.S.C. §§ 102 and 103

Claims 63-67, 76 and 77 stand rejected under 35 U.S.C. § 102(e) allegedly as being anticipated by Li *et al.* (U.S. Patent No. 6,174,995). Claims 63, 68 and 69 stand rejected under 35 U.S.C. § 103(a) allegedly as being unpatentable over Li *et al.* as applied to claims 63-67, 76 and 77 above, and further in view of Hart (U.S. Patent No. 5,094,941).

With respect to Li *et al.*, the Office Action alleges that “the antibody of the prior art would bind to the instant protein of amino acid sequence set forth in SEQ ID NO:2 due to the presence of homologous sequences in each protein in which ***there are stretches of 6 or more amino acids that are identical*** between the protein of the prior art and the instant protein.” The Office Action alleges that Li *et al.* discloses MCP-4 and “since MCP-4 and the instant polypeptide have ***regions of 6 amino acids in common***, an antibody to MCP-4 would have the inherent property of binding to the protein of SEQ ID NO:2 of the instant application.”

In telephonic interviews with the Examiner on October 30 and 31, 2006, the Applicants' representative, M. Scott McBride, indicated to the Examiner that MCP-4 ***does not have regions of 6 amino acids in common*** with the polypeptide of SEQ ID NO:2. Therefore, Li *et al.* does not teach or suggest the claimed subject matter. For these reasons, reconsideration and withdrawal of the rejections under 35 U.S.C. §§ 102(e) and 103(a) are requested.


VI. Conclusion

The present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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FOLEY & LARDNER LLP
Customer Number: 22428

By 

M. Scott McBride
Attorney for the Applicants
Registration No. 52,008
Telephone: (414) 297-5529
Facsimile: (414) 297-4900